IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.1409 OF 2005
IN
APPEAL FROM ORDER NO.1141 OF 2005

Shyam Nagar Zopadpatti
Rahivashi Sangh (Unregistered) & Ors. ...Applicants
Vs.
Union of India & Ors. ...Respondents

Mr V.S. Kapse for the Applicants.
None for the Respondents.

CORAM : A. S. OKA, J.
DATE : MARCH 18, 2006.

P.C.:

1. Rule. The Respondent Nos.1, 2 and 4 waives service. My attention has been invited to the order dated 11th August, 2005 passed by this Court in Appeal From Order No.622 of 2005. The order passed by this Court indicates that the Applicants contented before this Court that the hutments of the Applicants have been in existence prior to 04th August, 1986. In view of the submission made by the Applicants, ad-interim relief was granted in favour of the Applicants pending the Notice of Motion which was taken out by the Applicants before the Trial Court.

2. Prima facie, it appears to me that the Applicants were required to satisfy the Trial Court

that there was a prima facie evidence to substantiate their contention that the structures of the Applicants were in existence before 04th August, 1986.

3. Perusal of the impugned order and the documents annexed to the plaint shows that save and except in case of the Applicant No.2, no material could be produced by any of the Applicants to show existence of their respective structures prior to the aforesaid date. However, so far as the Applicant No.2 is concerned, there are documents which prima facie show that his structure was in existence prior to the aforesaid date.

4. Hence, structure of the Applicant No.2 will have to be protected. Hence, this Civil Application is disposed of by directing that till the final disposal of this Application, the Respondents will not demolish the structure in possession of the Applicant No.2 and will not dispossess the Applicant No.2. Prayer made as regards other Applicants is rejected.

JUDGE